

Application No. 09/481,572
Amdt Dated: March 7, 2006
Reply to Office Action of September 9, 2005

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the following amendments and remarks are requested.

Claims 45-64 are pending in this application. Claims 50, 51 and 55-61 have been withdrawn from consideration. By this Amendment, Applicants have cancelled claims 46 and 54 without prejudice and have amended claims 45, and 52-53. Support for the amendments can be found in the specification and claims as originally filed. The amendments add no new matter, and thus, their entry is respectfully requested.

Claim Rejection under 35 U.S.C. § 112

Claims 45-49, 52-54, 62-64 stand rejected under 35 U.S.C. §112, first paragraph, based on a lack of enablement.

The Examiner raises a scope of enablement rejection with respect to claims 45-49, 52-54 and 62-64. Specifically, the Examiner contends that the present specification is not enabled for inhibiting T-type calcium channels in any and all patients' cells. The Examiner does, however, indicate that the present invention is enabled for a method for treating T-type calcium channels in patients having the diseases or exhibiting the conditions listed in claim 46. Thus, in response to this rejection, Applicants have amended claim 45 by incorporating the limitations of claim 46 therein. Applicants submit that the claims, as amended, are fully enabled and satisfy the requirements of 35 U.S.C. §112, first paragraph.

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Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §112, first paragraph.

Claim Rejection under 35 U.S.C. § 102

Claims 45-46, 54 and 62 stand rejected under 35 U.S.C. §102(b) as being anticipated by BE 654916 (abstract).

Because the Examiner's search turned up no prior art related to the treatment of ischemic condition and arrythmia using Hp extract (see page 2 of September 7, 2005 Office Action), the Examiner searched for art related to the treatment of angina pectoris using Hp extract. Specifically, the Examiner contends that BE 654916 anticipates the present invention by teaching that angina pectoris is treated with Hypericum perforatum (Hp).

In response, without conceding the correctness of the Examiner's position, but to expedite allowance of the subject application, Applicants have amended claim 45 and canceled claim 54. As amended, the claims no longer recite the treatment of angina pectoris. In view of the present amendments and removal of the condition, angina pectoris, from the claims, Applicants submit that they have fully overcome the Examiner's grounds for rejection with respect to BE 654916.

Accordingly, reconsideration and withdrawal of the claim rejections under 35 U.S.C. §102(b) is respectfully requested, and Applicants respectfully request that the Examiner continue examination of the present claims by examining the next listed condition of claim 45.

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Claim Rejection under 35 U.S.C. § 103

Claims 45-49, 54 and 62-64 stand rejected as being obvious over BE 654916 in view of Khwaja et al under 35 U.S.C. §103.

According to the Examiner, it would have been obvious to adjust the parameters of the amounts of extract being administered to the patient of BE 654916 to effectively treat the patient in the best possible way to obtain the best possible results using routine experimentation. The Examiner contends that BE 654916 teaches that angina pectoris can be treated with Hp and that it would have been obvious to use a human since psoriasis routinely happens in humans and it would have been obvious to use methanol or ethanol for extraction.

In response, in light of the claim amendments presented herein, Applicants respectfully traverses the rejections under 35 U.S.C. §103. As the Examiner's obviousness rejection relies on BE 654916, Applicants submit that such rejection has been overcome in view of the amendments discussed above, i.e., the removal of the treatment of angina pectoris from the claims.

Furthermore, Khwaja alone does not teach or suggest the claimed invention, and does not render the claimed invention obvious. As applicants set forth in their previous response of June 16, 2005, *inter alia*, Khwaja does not tie Hp extract to the treatment of any of the health disorders listed in the present claims, nor provide a reasonable expectation of success that Hp extract would be useful to treat such health disorders according to the claimed invention. Moreover, there is no motivation or suggestion provided to modify the teachings of Khwaja to

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use Hp extract to treat a patient by inhibiting T-type calcium channels according to the claimed invention.

Applicants believe that the Examiner's grounds for rejection over BE 654916 in view of Khwaja et al under 35 U.S.C. §103. have been fully overcome by the amendments to the claims. Accordingly, reconsideration and withdrawal of the claim rejections under 35 U.S.C. §103 is respectfully requested and Applicants respectfully request that the Examiner continue examination of the present claims by examining the next listed condition in claim 45.

In light of the above remarks and amendments, Applicants believe that the Examiner's rejections set forth in the September 7, 2005 Office Action have been fully overcome and that the present claims fully satisfy the patent statutes. Reconsideration of the instant application, withdrawal of all rejections and early notice of allowance are requested.

Respectfully submitted,

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